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December 14, 2015

Via ECF

The Honorable Andrew L. Carter, Jr.,
Thurgood Marshall United States Courthouse,
40 Foley Square, Room 435,
New York, NY 10007

Re: *In re: North Sea Brent Crude Oil Futures Litig.*, No. 13-md-
02475-ALC

Dear Judge Carter:

We write on behalf of BP p.l.c., BP America Inc., BP Corporation North America Inc., Shell International Trading and Shipping Company Ltd., Shell Trading (US) Company, Statoil ASA, and Statoil US Holdings Inc. to inform the Court of developments in the Federal Trade Commission's ("FTC") and European Commission's ("EC") investigations into crude oil and biofuels.

As the Court is aware, in two separate complaints, the plaintiffs in this case allege that Defendants manipulated physical Brent crude oil and derivatives in violation of federal and state law. (Dkt. 166, No. 13-md-02475 ("Trader Compl."); Dkt. 96, No. 13-cv-07443 ("Landowner Compl.")). As Defendants noted in their joint motion to dismiss (Dkt. 211, p. 2 and n. 1), Plaintiffs' claims depend, in large part, on their repeated allegations concerning the EC's ongoing investigation into crude oil. (Trader Compl. ¶¶ 13-14, 448, 499, 505, 515; Landowner Compl. ¶¶ 186, 188-89, 234, 239, 249.) According to the complaints, the EC investigation focused on allegations that "(i) the companies may have colluded in reporting distorted prices to a [price-reporting agency] to manipulate the published prices for a number of oil and biofuel products; and (ii) the companies may have prevented others from participating in the price assessment process, to facilitate the monopoly over price setting and to distort published prices." (Trader Compl. ¶¶ 16, 450-51; Landowner Compl. ¶ 189.) Plaintiffs bolster their accusations by pointing to the EC's initial report that it had "concerns that [certain] companies may have prevented others from participating in the price assessment process, with a view to distorting published prices." (Trader Compl. ¶ 451; Landowner Compl.

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¶ 189.) Plaintiffs further allege that the FTC opened a formal investigation that “reportedly mirrors the EC inquiry into pricing practices of energy markets.” (Trader Compl. ¶¶ 15, 450; *see* Landowner Compl. ¶ 188.)

In October 2014, BP, Shell, and Statoil were informed by the FTC that it was closing its investigation into anticompetitive practices in oil reporting. More recently, on December 7, 2015, the EC also announced that after more than two years of work, it “is currently not investigating further behaviors in price benchmarks for the crude oil sector.”¹ EC Competition Commissioner Margrethe Vestager explained that “[i]t’s important to close down probes when evidence and data don’t support the suspicions. . . . When it turns out there’s no basis for a case, it should be shut down instantly.”² As reports of the EC’s announcement indicate, the EC has shifted its investigation to focus on different companies and a different claim.³

¹ Exhibit A (Aloife White & Gaspard Sebag, “Oil Firms Dropped from EU Probe Into Fuel-Price Manipulation,” *Bloomberg Business* (Dec. 7, 2015)); Exhibit B (Philip Blenkinsop & Foo Yun Chee, “EU Drops Shell, BP, Statoil from Ethanol Benchmark Investigation,” *Reuters* (Dec. 7, 2015)).

² Exhibit C (Aoife White et al., “Big Oil Let Off Hook Days After EU Drops Wall Street Probe,” *Bloomberg Business* (Dec. 8, 2015)).

³ Exhibit D (Press Release, European Commission, Antitrust: Commission Opens Formal Investigation in the Biofuels Sector Concerning Ethanol Benchmarks (Dec. 7, 2015)).

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We are available at the Court's convenience if it has any questions.

Respectfully Submitted,

/s/ Daryl A. Libow

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(Attachments)

cc: Counsel of Record (via electronic filing)